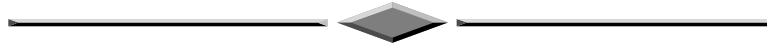


OTHER MISCELLANEOUS RETAILER OCCUPATIONS



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OTHER MISCELLANEOUS RETAILER OCCUPATIONS

INTRODUCTION

This section deals with audit methods and procedures to be utilized on sales and use tax audits conducted on specific retailer occupations.

KRS 139.110(1)(a) (Effective until July 1, 2004)

139.110 "Retailer." (Effective until July 1, 2004)

(1) "Retailer" includes:

- (a) Every seller who makes any "retail sale" or "sales at retail," or who furnishes any services and facilities included in KRS 139.100, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others;

KRS 139.110(1)(a) (Effective July 1, 2004)

139.110 "Retailer." (Effective July 1, 2004)

(1) "Retailer" means:

- (a) Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;

AUDIT PROCEDURES

Temporary and Transient Vendors

Regulation 103 KAR 25:060

103 KAR 25:060. Temporary and transient vendors.

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103 KAR 25:060. Temporary and transient vendors.

RELATES TO: KRS 139.550, 139.560

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: To interpret the sales and use tax law as it applies to temporary and transient vendors.

Section 1. Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, and shall obtain a retail sales tax registration from the Revenue Cabinet.

Section 2. Persons having no fixed place of business and not selling from a vehicle shall procure a registration in the county in which they make sales of tangible personal property. The application for such registration shall set forth an established residence or permanent mailing address to which all communications from the cabinet shall be addressed.

Section 3. Persons with no fixed place of business and selling from vehicles shall procure a registration for each vehicle. Such registration shall cover all sales made from the vehicle in any county in the state. The application for such registration shall set forth a residence or permanent mailing address in this state to which all communications from the cabinet may be sent.

Section 4. Persons coming within the provisions of this administrative regulation may be required to post a bond if, in the judgment of the cabinet, it is deemed necessary or advisable to secure the collection of the tax. A cash bond or a surety bond is acceptable. The amount and type of the bond shall be determined by the cabinet. The tax may be prepaid in lieu of filing said bond. The bond shall be filed with the cabinet prior to the issuance of the registration and engaging in business within this state.

Section 5. The sales tax return shall be filed and the tax due shall be paid to either a Revenue Cabinet field office or representative. The due date for the filing of the sales tax return is the expiration date shown on the taxpayer's retail sales tax registration or the date when selling at the designated location is completed, whichever is the earlier. In those cases where the sales of tangible personal property are of more than one (1) month's duration, the tax shall be reported and remitted to the cabinet at the end of each month. (SU-87; 1 Ky.R. 228; eff. 1-8-75.)

KRS 139.550(4)

139.550 Required monthly return. (Effective until July 1, 2004)

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in such form as the cabinet may prescribe.
- (2) For purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.
- (3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under such rules as the cabinet shall provide for the efficient collection of the sales tax on such sales.

Effective: February 5, 1960

History: Created 1960 Ky. Acts ch. 5, Art. I, sec. 51, effective February 5, 1960.

139.550 Required monthly return. (Effective July 1, 2004)

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in a form the cabinet may prescribe.
- (2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.
- (3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the cabinet shall provide for the efficient collection of the sales tax on sales.
- (5) The return shall show the amount of the taxes for the period covered by the return and other information the cabinet deems necessary for the proper administration of this chapter.

Effective: July 1, 2004

History: Amended 2003 Ky. Acts ch. 124, sec. 26, effective July 1, 2004. -- Created 1960 Ky. Acts ch. 5, Art. I, sec. 51, effective February 5, 1960.

Changes related to the 2005 amendment consist of replacing Cabinet with Department.

Temporary and transient vendors addressed in **Regulation 103 KAR 25:060** and **KRS 139.550(4)** are persons not regularly engaged in retail selling and do not have a permanent place of business, but do temporarily engage in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like. These vendors are required to report and remit tax on a nonpermit basis.

It is standard procedure for Department personnel working these events to contact the event promoter, if possible, to obtain a list of names and addresses of those vendors that will be making sales of tangible personal property or will be charging admissions subject to sales tax.

The most efficient manner to work temporary events if the circumstances make it possible and the promoter is willing, is to obtain the vendor list and give the temporary vendor letters to the promoter to distribute (some promoters assemble information packages for their vendors). Vendors then complete the bottom portion of the letter and mail it and the tax due back to the Service Center. The person assigned to work that event marks the vendor off the list, cuts off the bottom portion of the letter, paperclips the check or money order to it and it is sent to Frankfort where it is posted to the Miscellaneous Tax database. (Hereafter, the bottom portion of this letter will be referred to as a 204.) If the vendor holds a Kentucky Sales and Use Tax Permit, they enter the number on the Identification Number line of the 204 and tax is not remitted with it. The Department personnel working the event destroy these 204s after verifying the validity of the sales and use tax number.

It is also common for temporary events to be worked in person by the compliance/program officer. Each vendor is visited at the event, name and address information is obtained if a list is not obtained from the promoter, and they are given the same type of letter to mail back to the Service Center.

Occasionally, temporary events can be worked by delivering a modified temporary vendor letter to vendors at the beginning of the event and field representatives come back near the end of the event and collect the letters and tax due. This is usually done for very large events where obtaining or compiling a list of names and addresses are impractical, making voluntary compliance less likely, or at the request of the promoter. When events are worked in this manner, many of the vendors pay in cash and cash receipts are issued. The cash is deposited in the Service Center's bank account and a single office check is written for the total amount of cash collected.

Any vendors not returning their temporary vendor letter after the date specified are sent a second request temporary vendor letter. Vendors are given 30 days to return the second letter with tax due. When one of these letters is returned with payment, the bottom portion of it (204) and payment are forwarded for processing. As a final measure, jeopardy assessments are issued to those vendors failing to respond to a second letter.

The three temporary vendor letters addressed above are located on the following pages.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE
CENTRAL KENTUCKY TAXPAYER SERVICE CENTER
P O BOX 657
FRANKFORT, KY 40602-0657
revenue.ky.gov

Kentucky Department of Revenue records indicate you will be a vendor at the (event name) held in (event city), Kentucky on (date). As a vendor, KRS 139.200 imposes 6% sales tax upon retailers on retail sales made within the Commonwealth.

If you are not registered for a Kentucky sales and use tax permit number you must complete the bottom portion of this letter and return this letter with the tax due. Please enter your social security number or FEIN as identification number if you do not have a Kentucky sales and use tax permit number. Make checks or money orders payable to the Kentucky State Treasurer.

Failure to comply with this request by (date due) will result in the issuance of Jeopardy Assessment pursuant to KRS 131.150. This tax bill will include tax, interest and the late payment penalty per KRS 131.180(2).

If you have any questions, contact the (name of service center) Service Center at (phone # of service center), ext.. The office hours are Monday through Friday, 8:00 A.M. to 5:00 P.M.

Please list your name as registered with the promoter of the event to ensure proper credit.

_____	010	_____
Identification No.	Tax Type	Business Name

_____	_____	_____
Last Name	First Name	Middle

_____	_____	_____	_____
Street Address	City	State	Zip Code

_____	1	6
Month	Year	County Code
		Type Return

____	____	____	____	____	____	____	____	____	____
Net Tax Paid					Total Tax Paid				

Signature

(Show initials)/(Officer's initials)



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE
CENTRAL KENTUCKY TAXPAYER SERVICE CENTER
P O BOX 657
FRANKFORT, KY 40602-0657
revenue.ky.gov

Kentucky Department of Revenue records indicate you will be a vendor at the Antique Show and Sale event in Georgetown, Kentucky on March 11-12, 2006. As a vendor, KRS 139.200 imposes 6% sales tax upon retailers on retail sales made within the Commonwealth.

If you have a permanent Kentucky sales and use tax permit number and are reporting the activities of this event on that number, provide that number and the business name that the activities of this event will be reported and your signature in the areas designated below. Do not send the tax with this form.

If you are not registered for a Kentucky sales and use tax permit number you must complete the bottom portion of this letter and return this letter with the tax due. Please enter your social security number or FEIN as identification number if you do not have a Kentucky sales and use tax permit number. **Make checks or money orders payable to the Kentucky State Treasurer.**

Failure to comply with this request by April 20, 2006 will result in the issuance of Jeopardy Assessment pursuant to KRS 131.150. This tax bill will include tax, interest and the late payment penalty per KRS 131.180(2).

If you have any questions, contact the Central Kentucky Taxpayer Service Center at (502) 564-5930, Ext. 4836. The office hours are Monday through Friday, 8:00 A.M. to 5:00 P.M.

Please list your name as registered with the promoter of the event to ensure proper credit.

_____	010 _____	_____
Identification No. (SS #/FEIN)	Tax Type	Business Name

_____	_____	_____
Last Name	First Name	Middle

_____	_____	_____	_____
Street Address	City	State	Zip Code

03	2006	105	6
Month	Year	County Code	Type Return

____	____	____	____	____	____
Total Sales			Total Tax Paid		

Signature

DEPARTMENT OF REVENUE
CENTRAL KENTUCKY TAXPAYER SERVICE CENTER
P O BOX 657
FRANKFORT, KY 40602-0657
revenue.ky.gov

VENDOR NAME
ADDRESS
CITY STATE ZIP

Kentucky Department of Revenue records indicate you were a vendor at the EVENT held at LOCATION on DATE. As a vendor, KRS 139.200 imposes a 6% sales tax upon retailers on retail sales made within the Commonwealth.

If you currently hold a Kentucky sales and use tax permit number and are reporting the activities of this event on that number, provide the Kentucky sales tax permit number for which the activities of this event will be reported in the area designated below. Do not send the tax with this letter. Please use the envelope provided.

Name **Kentucky Sales and Use Tax Permit Number**

If you are not registered for a Kentucky sales and use tax permit number you must complete the bottom portion of this letter, return it and remit the tax due. Make checks or money orders payable to: Kentucky State Treasurer. Please use the envelope provided.

Failure to comply with this request by DATE DUE will result in the issuance of a Jeopardy Assessment pursuant to KRS 131.150. This tax bill will include tax, interest, and the Late Payment penalty KRS 131.180(2).

If you have any questions, contact the Central Kentucky Taxpayer Service Center at (502) 564-5930. The office hours are Monday through Friday, 8:00 A.M. to 5:00 P.M.

Sincerely,

SECOND REQUEST

THIS LETTER MUST BE RETURNED

(Name), Field Officer

Social Security Number / FEIN) **Tax Type** **Business Name**

Last Name **First Name (if applicable)** **Middle**

Street Address **City** **State** **Zip Code**

Month **Year** **County** **Type**
(1-12) **Code** **Return**

Net Tax Paid **Total Tax Paid**

Officer **Signature**

Temporary Vendor's Sales and Use Tax Permits and **Temporary Vendor's Sales Tax Returns** were and still are occasionally issued to individual vendors. This is done when requested by the vendor or sales are expected to take place for more than several days (examples are fireworks and Christmas tree sales). The **Temporary Vendor's Sales Tax Permit** and **Temporary Vendor's Sales Tax Return** is a four part form containing 1 copy of the permit and three copies of the return. When issued, the vendor receives the permit and one copy of the return. The field person keeps the other two copies of the return in the permit book. After conclusion of the event, the vendor completes and returns one copy of the return with payment. The information from the return is transferred to a 204 by the field office personnel, the 204 and payment are forwarded for processing. The return in the permit book is completed and a copy is mailed back to the taxpayer.

Temporary and transient vendors are not allowed the \$1,000 exemption authorized under **KRS 139.496**.

Revenue Form 51A250 - Application for Transient Merchant Permit, is located on the following page.

There is a difference between a transient merchant and a transient vendor. The law change, effective 7/15/86, requiring a transient merchant to make application and pay a fee of twenty-five dollars (\$25) for a permit in each county in which the transient merchant does business does not alter their sales and use tax responsibilities. They would be treated just like a transient/temporary vendor. It should be noted in passing that bond may be required to be posted by the transient merchant which is security for delinquent taxes and the permit application is to be designed and distributed by the Kentucky Department of Revenue.

A transient merchant cannot try and secure a permanent sales and use tax permit in an attempt to avoid the \$25 permit fee levied under **KRS 365.680**.



APPLICATION FOR
TRANSIENT MERCHANT PERMIT

IMPORTANT: See instructions on reverse for information on who must apply and requirement to have a registered agent.

NOTE: A fee of \$25 must be submitted with this application.

COPY DISTRIBUTION

White — Applicant's Copy
Canary — Clerk's or Urban County Government Copy
Pink — Attorney General's Copy
Division of Consumer Protection
1024 Capital Center Drive
Frankfort, KY 40601
Goldenrod — Department of Revenue's Copy
Frankfort, KY 40620

SECTION I—GENERAL INFORMATION					
Name and Permanent Address of Applicant			Name and Address of Your Agent or Office		
Name			Name		
Permanent Address (Street or Route No.)			Permanent Address (Street or Route No.)		
City State ZIP Code			City State ZIP Code		
1. Type of products sold (<i>specify</i>) _____					
2. Date and length of time sales will be conducted, and location in county _____					
3. Total retail value of all inventory offered for sale _____					
4. Have you acquired all other city, county and state permits or licenses? <input type="checkbox"/> Yes <input type="checkbox"/> No					
5. Do you presently hold a Kentucky Sales and Use Tax permit? <input type="checkbox"/> Yes <input type="checkbox"/> No Sales Tax Number _____					
6. Have you posted security with the Attorney General? <input type="checkbox"/> Yes <input type="checkbox"/> No (<i>see instructions</i>) <i>If yes, attach a blank copy of your sales contract and right of rescission notice, as required by KRS 365.687, 367.420-367.460.</i>					
SECTION II—TO BE COMPLETED BY ALL CORPORATIONS OR FIRMS					
1. Date of incorporation (<i>mo., day, yr.</i>) __/__/__ 2. State of incorporation _____					
3. If not incorporated in Kentucky, date registered to do business in Kentucky (<i>mo., day, yr.</i>) __/__/__					
4. Name and address of members of firm or officers of corporation:					
A Name _____ Street _____ City _____ State _____ ZIP Code _____					
B Name _____ Street _____ City _____ State _____ ZIP Code _____					
C Name _____ Street _____ City _____ State _____ ZIP Code _____					
SECTION III—SIGNATURE					
The statements contained in this application are hereby certified to be correct to the best knowledge and belief of the undersigned who is duly authorized to sign this application.					
_____ Signature Title Date					

COMMONWEALTH OF KENTUCKY
TRANSIENT MERCHANT PERMIT

Name and Address Where Business to be Conducted	This Permit Valid Only in County Shown Below	Issuance Date		
		Month	Day	Year
	County Clerk's or Authorized Government Officer's Signature			
POST IN A CONSPICUOUS PLACE THIS PERMIT IS NOT TRANSFERABLE		This permit is issued pursuant to authority of Chapter 365 of the Kentucky Revised Statutes and is valid for 90 days from the issuance date shown above.		

Civic Clubs and Similar Organizations

Regulation 103 KAR 27:170 - Sales by Civic Clubs and Similar Organizations

RELATES TO: KRS 139.050

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation interprets the sales and use tax law as it applies to transactions involving sales by civic clubs and similar organizations.

Section 1. Where civic clubs, associations, chambers of commerce, and similar organizations sell tickets for meals at prices which include services rendered in addition to the cost paid to the supplier for the meals, such clubs, associations, chambers of commerce and similar organizations will be treated as consumers of such meals, and the tax applies to gross receipts from the sale of the meals to them. Such clubs and other organizations are consumers of other items of tangible personal property which they sell incidentally in connection with the rendering of their services, and the tax applies to gross receipts from the sales of such property to them. (SU-39; 1 Ky.R. 145; eff. 12-11-74.)

Civic clubs, associations, chambers of commerce and similar organizations are retailers of tangible personal property if these sales are not incidental to the related service being rendered by the organization. When these organizations sell tickets for services which include a meal, the purchase of the meal by the organization is taxable under **Regulation 103 KAR 27:170**.

This regulation deals with **501(c)** organizations, just not **501(c)(3)**. Also, these organizations are considered consumers if their sales are incidental, but retailers if not.